

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1914

AN ACT

2 To repeal section 386.370, RSMo, and to enact
3 in lieu thereof two new sections relating to
4 the funding of the office of public counsel,
5 with an emergency clause.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
7 AS FOLLOWS:

8 Section A. Section 386.370, RSMo, is repealed and two new
9 sections enacted in lieu thereof, to be known as sections 386.370
10 and 386.720, to read as follows:

11 386.370. 1. The commission shall, prior to the beginning
12 of each fiscal year beginning with the fiscal year commencing on
13 July 1, 1947, make an estimate of the expenses to be incurred by
14 it during such fiscal year reasonably attributable to the
15 regulation of public utilities as provided in chapters 386, 392
16 and 393, RSMo, and shall also separately estimate the amount of
17 such expenses directly attributable to such regulation of each of
18 the following groups of public utilities: Electrical
19 corporations, gas corporations, water corporations, heating
20 companies and telephone corporations, telegraph corporations,

1 sewer corporations, and any other public utility as defined in
2 section 386.020, as well as the amount of such expenses not
3 directly attributable to any such group.

4 2. The commission shall allocate to each such group of
5 public utilities the estimated expenses directly attributable to
6 the regulation of such group and an amount equal to such
7 proportion of the estimated expenses not directly attributable to
8 any group as the gross intrastate operating revenues of such
9 group during the preceding calendar year bears to the total gross
10 intrastate operating revenues of all public utilities subject to
11 the jurisdiction of the commission, as aforesaid, during such
12 calendar year. The commission shall then assess the amount so
13 allocated to each group of public utilities, subject to reduction
14 as herein provided, to the public utilities in such group in
15 proportion to their respective gross intrastate operating
16 revenues during the preceding calendar year, except that
17 beginning with the fiscal year commencing on July 1, 2002, and
18 continuing thereafter until June 30, 2004, the sum of the amount
19 assessed to all such public utilities pursuant to this section
20 and the assessment rendered pursuant to section 386.720 shall not
21 exceed twenty-four hundredths of one percent of the total gross
22 intrastate operating revenues of all utilities subject to the
23 jurisdiction of the commission, and beginning with the fiscal
24 year commencing on July 1, 2004, the [total] amount [so] assessed
25 to all such public utilities pursuant to this section shall not

1 exceed one-fourth of one percent of the total gross intrastate
2 operating revenues of all utilities subject to the jurisdiction
3 of the commission.

4 3. The commission shall render a statement of such
5 assessment to each such public utility on or before July first
6 and the amount so assessed to each such public utility shall be
7 paid by it to the director of revenue in full on or before July
8 fifteenth next following the rendition of such statement, except
9 that any such public utility may at its election pay such
10 assessment in four equal installments not later than the
11 following dates next following the rendition of said statement,
12 to wit: July fifteenth, October fifteenth, January fifteenth and
13 April fifteenth. The director of revenue shall remit such
14 payments to the state treasurer.

15 4. The state treasurer shall credit such payments to a
16 special fund, which is hereby created, to be known as "The Public
17 Service Commission Fund", which fund, or its successor fund
18 created pursuant to section 33.571, RSMo, shall be devoted solely
19 to the payment of expenditures actually incurred by the
20 commission and attributable to the regulation of such public
21 utilities subject to the jurisdiction of the commission, as
22 aforesaid. Any amount remaining in such special fund or its
23 successor fund at the end of any fiscal year shall not revert to
24 the general revenue fund, but shall be applicable by
25 appropriation of the general assembly to the payment of such

1 expenditures of the commission in the succeeding fiscal year and
2 shall be applied by the commission to the reduction of the amount
3 to be assessed to such public utilities in such succeeding fiscal
4 year, such reduction to be allocated to each group of public
5 utilities in proportion to the respective gross intrastate
6 operating revenues of the respective groups during the preceding
7 calendar year.

8 5. In order to enable the commission to make the
9 allocations and assessments herein provided for, each public
10 utility subject to the jurisdiction of the commission as
11 aforesaid shall file with the commission, within ten days after
12 August 28, 1996, and thereafter on or before March thirty-first
13 of each year, a statement under oath showing its gross intrastate
14 operating revenues for the preceding calendar year, and if any
15 public utility shall fail to file such statement within the time
16 aforesaid the commission shall estimate such revenue which
17 estimate shall be binding on such public utility for the purpose
18 of this section.

19 386.720. 1. Beginning with the fiscal year commencing on
20 July 1, 2002, the commission shall assess public utilities
21 subject to the jurisdiction of the commission for an amount equal
22 to the costs to be incurred by the public counsel reasonably
23 attributable to the performance of duties pursuant to section
24 386.710. Such amount shall not exceed the amount appropriated
25 for the office of the public counsel for the fiscal year

1 commencing on July 1, 2001, as adjusted on July 1, 2002, and
2 annually thereafter, by the same percentage as the increase in
3 the general price level as measured by the Consumer Price Index
4 for All Urban Consumers (CPI-U) for the United States, or its
5 successor index, as defined and officially recorded by the United
6 States Department of Labor or its successor agency. The
7 commission shall assess such amount to the public utilities
8 subject to the jurisdiction of the commission, subject to
9 reduction as herein provided, in proportion to their respective
10 gross intrastate operating revenues during the preceding calendar
11 year. Any public utility subject to such assessment may recover
12 its proportion of such assessment from customers and may list
13 such recovery as a line item charge on such customers' bills.
14 Customers subject to such a recovery charge shall be billed in
15 proportion to their respective use of such utility's services.
16 The total amount recovered from such customers in any year shall
17 not exceed the utility's annual assessment.

18 2. The commission shall render annually a statement for the
19 public counsel assessment to each such public utility on or
20 before July first and the amount so assessed to each such public
21 utility shall be paid by it to the director of revenue in full on
22 or before July fifteenth next following the rendition of such
23 statement; except that any such public utility may at its
24 election pay such assessment in four equal installments not later
25 than the following dates next following the rendition of such

1 statement, to wit: July fifteenth, October fifteenth, January
2 fifteenth, and April fifteenth. Such statement shall be included
3 with the statement for the assessment rendered pursuant to
4 section 386.370, provided that the amount for the assessment
5 pursuant to this section and the amount for the assessment
6 pursuant to section 386.370 shall be listed as separate line item
7 charges on such statement. The director of revenue shall remit
8 such payments to the state treasurer.

9 3. The state treasurer shall credit payments received for
10 the public counsel to a special fund, with is hereby created, to
11 be known as the "Public Counsel Fund" with such fund to be
12 subject to appropriation and devoted solely to the payment of
13 expenditures actually incurred by the public counsel and
14 attributable to the performance of duties pursuant to section
15 386.710. Notwithstanding the provisions of section 33.080, RSMo,
16 any amount remaining in such special fund at the end of any
17 fiscal year shall not revert to the general revenue fund, but
18 shall be applicable by appropriation of the general assembly to
19 the payment of such expenditures of the public counsel in the
20 succeeding fiscal year and shall be applied by the commission to
21 the reduction of the amount to be assessed to such public
22 utilities in such succeeding fiscal year, such reduction to be
23 allocated to each group of public utilities in proportion to the
24 respective gross intrastate operating revenues of the respective
25 groups during the preceding calendar year. Prior to May

1 sixteenth of each year, the public counsel shall provide the
2 commission with an estimate of the amount that will remain in the
3 public counsel fund at the end of the fiscal year.

4 4. The provisions of subsections 1 to 3 of this section
5 shall expire on July 1, 2004. Beginning with the fiscal year
6 commencing on July 1, 2004, and subject to appropriation, funding
7 for costs incurred by the public counsel reasonably attributed to
8 the performance of duties pursuant to section 386.710 shall be
9 provided from general revenue.

10 Section B. Because immediate action is necessary to ensure
11 that the interests of the utility customers continue to be
12 represented in cases before the public service commission,
13 section A of this act is deemed necessary for the immediate
14 preservation of the public health, welfare, peace, and safety,
15 and is hereby declared to be an emergency act within the meaning
16 of the constitution, and section A of this act shall be in full
17 force and effect upon its passage and approval.